

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

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## PCT

NOTIFICATION OF TRANSMITTAL OF  
THE INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT  
(PCT Rule 71.1)

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| Date of mailing<br>(day/month/year) | 16.06.2003 |
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| Applicant's or agent's file reference<br>9306.3.WO | <b>IMPORTANT NOTIFICATION</b> |
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| International application No.<br>PCT/US02/02043 | International filing date (day/month/year)<br>22/01/2002 | Priority date (day/month/year)<br>02/02/2001 |
|---|--|--|

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| Applicant<br>MERCURYMD, INC. et al. |
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1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

#### 4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

For the purpose of deciding whether the claimed invention is patentable or not, the elected Offices may apply criteria additional to or different from the criteria on which the international preliminary examination report is based (see Articles 27(5), 33(5)). Additional criteria may include e.g. exemptions from patentability and the requirements of enabling disclosure and of clarity and support of claims.

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|                                       |                    |                                    |
|---------------------------------------|--------------------|------------------------------------|
| Name and mailing address of the IPEA/ | Authorized officer | By: <u>SO</u><br>Date: <u>6/20</u> |
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# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY EXAMINATION REPORT



(PCT Article 36 and Rule 70)

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|--|---|---|
| Applicant's or agent's file reference<br><b>9306.3.WO</b>  | <b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416) |   |
| International application No.<br><b>PCT/US02/02043</b>   | International filing date (day/month/year)<br><b>22/01/2002</b>   | Priority date (day/month/year)<br><b>02/02/2001</b> |
| International Patent Classification (IPC) or national classification and IPC<br><b>G06F19/00</b> |   |   |
| Applicant<br><b>MERCURYMD, INC. et al.</b>   |   |   |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.  
  
☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  
  
 These annexes consist of a total of 3 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

|   |   |
|---|---|
| Date of submission of the demand<br><br><b>30/08/2002</b>   | Date of completion of this report<br><br><b>16.06.2003</b>  |
| Name and mailing address of the international preliminary examining authority:<br><br> European Patent Office<br>D-80298 Munich<br>Tel. +49 89 2399 - 0 Tx: 523656 epmu d<br>Fax: +49 89 2399 - 4465 | Authorized officer<br><br><b>Sisk, A</b><br><br>Telephone No. +49 89 2399 6041<br><br> |

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/US02/02043

## I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

### Description, pages:

1-27 as originally filed

### Claims, No.:

1-16 as received on 15/05/2003 with letter of 15/05/2003

### Drawings, sheets:

1-10 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☒ the claims, Nos.: 17-34

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EXAMINATION REPORT**

International application No. **PCT/US02/02043**

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☐ the drawings,                sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement**

1. Statement

|                               |      |        |      |
|-------------------------------|------|--------|------|
| Novelty (N)                   | Yes: | Claims | 1-16 |
|                               | No:  | Claims |      |
| Inventive step (IS)           | Yes: | Claims |      |
|                               | No:  | Claims | 1-16 |
| Industrial applicability (IA) | Yes: | Claims | 1-16 |
|                               | No:  | Claims |      |

2. Citations and explanations  
**see separate sheet**

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/US02/02043

**Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

- a. Reference is made to the following documents which were cited in the international search report:  
D3: US-A-5 924 074
- b. The following terms used in claims 1 and 9 are vague and unclear and leave the reader in doubt as to the meaning of the technical features to which they refer, thereby rendering the definition of the subject-matter of said claims unclear (Article 6 PCT).  
(i) "capturing real-time outbound HL7 data streams from a plurality of data processing systems"  
(ii) "into a common format".
- c. Notwithstanding the above clarity issues, the system of amended claims 1 and 9 is assumed to be directed to a system that retrieves HL7-encoded data from a plurality of data sources, reformats the data and stores it, and presents it to a user via a mobile terminal featuring a touchscreen and large GUI controls.
- d. Document D3, which is now considered to be the closest prior art, discloses a system for storing and presenting patient data (see Col 2, lines 28-50) whereby the data is retrieved from external data sources (see Col 9, lines 9-14) and then converted and stored in a patient record database from which it can be retrieved by a user (see Col 10, lines 21-50).  
Additionally, D3 discloses that a mobile terminal is used to view the converted data (see Fig. 24) and that the mobile terminal is operated by a pointing device (see Col 5, lines 60-65 and Col 6, lines 40-54) to view the various categories of information stored for a patient.
- e. In D3, the features of retrieving HL7 data and operating the mobile terminal by using large UI controls are not present.  
Therefore, D3 has the problem that it does not retrieve data in a standardised way and that the user interface requires a pointing device.
- f. The problem of the closest prior art, as represented by D3, is solved by the system of claim 1 in that claim 1 comprises means to retrieve HL7-encoded data from a plurality of external sources and means for the provision of a touch screen with large UI controls such that a user can operate the user interface using a finger.
- g. However, the solution proposed in claim 1 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) for the following reasons:
- D3 discloses that it uses data handlers to retrieve patient data from the external data sources, and that it converts the data for storage in its own patient database. As HL7 simply defines a standard for exchange of data, it would be a simplification of the system of D3 if external data sources were HL7 compliant, and therefore this feature is merely one of several straightforward possibilities from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill, in order to solve the problem posed.

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

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International application No. PCT/US02/02043

- D3 discloses that it provides a touch screen (see Col 14, lines 62-64). The provision of large UI controls that can be selected by a finger instead of a pen is also simply one of several straightforward possibilities from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill, in order to solve the problem posed.

- h. Dependent claims 2-8 and 10-16 do not appear to contain any additional features, which in combination with the features of any claim to which they refer, can be considered as involving an inventive step (Article 33(3) PCT).

D3 discloses features that are equal or equivalent to the features of claims 3,4,5,6,7,11,12,13,14 and 15. In particular:

- (i) For claims 3 and 11, refer to D3 (see Figure 24).
- (ii) For claims 4,5,12 and 13, refer to D3 (see Col 5, lines 60-65).
- (iii) For claims 6 and 14, refer to D3 (see Col 5, line 56 to Col 6, line 6).
- (iv) For claims 7 and 15, refer to D3 (see Col 5, lines 21-24).

Claims 2,8,10 and 16 are considered to be trivial additions and therefore are not considered as involving an inventive step (Article 33(3) PCT).

- i. The subject matter of claims 1 and 9 is considered to fulfill the requirements of industrial applicability (Article 33(4) PCT).